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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,311	03/02/2005	Melchor Daumal Castellon	001058-00023	3822
27557 7590 07/29/2010 BLANK ROME LLP WATERGATE 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037				
EXAMINER				
KELLY, CATHERINE A				
ART UNIT		PAPER NUMBER		
3634				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/526,311

**Applicant(s)**

DAUMAL CASTELLON, MELCHOR

**Examiner**

CATHERINE A. KELLY

**Art Unit**

3634

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-8, 11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 11, and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 and 5-7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 line 11 includes the limitation "a second height defined by the height of the window, However, the figures show the second height to be height of the door minus the first height, which is a smaller value than that of the window. Was window region meant? Region above the beltline? Claim 1 lines 12 and 13 include the limitation "said first distance has a value for generating a resistive torque." How can a distance value be a torque?

Claims 8, 11, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 line 7 includes the limitation "a track." Is this the same as the "a first track" of line 5? A different second track? Claim 8 line 8 includes the limitation "said track." Which track?

Claim 13 lines 3-4 include the limitation "the pane completely resting on the frame." If the pane has a slider in a track, isn't some part of the slider by necessity resting on the slider and thus the track? What does applicant mean to be excluded by 'completely resting on the frame'? Further, claim 13 line 3 includes the limitation "slider...has a single point of contact." Contact with what? The track? The pane?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4608779 to Maeda. As best understood, the window lift assembly of claim 1 is shown in the '779 reference in figures 1-13 where a first guide and slider assembly shown with upper slider 16 provided in a frame 13 of a door 10 of the vehicle and a second guide and slider assembly shown with lower slider 16 provided in a track of the window lift assembly 14b, both assemblies having sliders 16 fixed to a window pane 12 as shown in figure 3, the structure of said window lift assembly defines a first distance between a first top point of contact and a second bottom point of contact of the slider of the second assembly with the track measured on a line parallel to said track as can be seen in figure 2 from top to bottom of lower slider 16; a second distance from an upper edge of the window pane to a fastening point of the slider of said first

assembly on the pane as can be seen in figure 2 from upper edge of pane 12 to upper slider 16; a third distance from the track of the second assembly to a portion of the frame defined where the first assembly is provided in the frame as can be seen in figure 2 from the middle of lower slider 16 along track 14b horizontally to the middle of upper slider 16; a first height from a lower edge of the door of the vehicle to a belt line of the door as seen in figure 2; and a second height defined by the height of the window of the vehicle as can be seen in figure 2, characterized in that said first distance, as best understood, has a maximum value and said value said first distance is less than a difference between the first height and the second height, said second distance being less than a difference between the second height and the second distance; and the value of the third distance being more than 100 mm.

The '779 reference is silent with regards to the actual size of the third distance.

The size of the third distance would depend on the angle of the guide/track and as such, Examiner takes Official Notice that steeper angles guides were well known in the art at the time of invention.

One of ordinary skill in the art would be motivated to provide the window lifter of the '779 reference with an angled guide because angled guides were well known in the art to provide good guiding combined with lack of jamming which can be desirable in the art.

Regarding claim 2, the fourth distance is shown in figure 2 between the bottom and middle of the lower slider 16.

Regarding claims 3 and 5-7, the upper slider 16 contacts the guide at a single point, as best understood, as shown in figure 3, and the range of value for the third distance depends on the angle, as noted in the above rejection of claim 1, and thus follows with the Official Notice of claim 1.

Claims 8, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4608779 to Maeda in view of US patent 5159781 to Glossop. The window lifter of claim 8 is shown in the '779 reference in figures 1-13 where a first guide and slider assembly provided in an upper portion 13 of the frame of the door, including a first slider 16 (upper), the first slider being fitted in track 14b such that the first slider 16 is guided without the possibility of rotation; a track 14b provided in a lower portion of the frame of the door 10; and a second guide and slider assembly provided in said track, including a second slider 16 (lower); wherein both of said first and second sliders 16 are fixed to the window pane 12.

However, the '779 reference shows only 1 track.

Two tracks are shown in the '781 reference in figures 1-7 where window pane 12 has upper slider 42 in upper track 34 and lower slider 44 in lower track 36 which are separate from each other as shown in figure 2.

One of ordinary skill in the art would be motivated to provide the window lifter of the '779 reference with the two tracks of the '781 reference because two tracks were known in the art to provide guiding allowing for additional movements, i.e. closing flush, without jamming.

Regarding claim 11, the first slider 42 has a single point of contact with track 34 allowing for rotation of second slider 44 as shown via the curved end 38 of second track 36 in the '781 reference.

Regarding claim 13, as best understood, the first slider 16 (upper) has a single point of contact in the '779 reference as shown in figures 3, 6, and 7 where pane 12 contacts slider 16 at point 52a.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3, 5-8, and 11-13 have been considered but are moot in view of the new ground(s) of rejection. In regards to applicant's arguments directed to claim 8, claim 8 is rejected above and was not rejected in the previous action due to the extent of the 112 issues. Further 112 issues are addressed above and art rejections are also given for all pending claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE A. KELLY whose telephone number is (571)270-3660. The examiner can normally be reached on Monday through Friday 9am - 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. K./  
Examiner, Art Unit 3634

/Katherine W Mitchell/  
Supervisory Patent Examiner, Art  
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cak